MISC. APPEAL No. 395 OF 1994

RAJ KUMAR CHOPRA----------(Appellant)

Versus

SEEMA CHOPRA & ORS----------(Respondents)

For the Appellant : Mr. P.C. Das.
For the Respondent : Mr. Arvin Kumar Verma.

P R E S E N T
THE HON'BLE MR. JUSTICE BARIN GHOSH
AND
THE HON'BLE MR. JUSTICE C.M. PRASAD

J U D G M E N T

Barin Ghosh &
C.M. Prasad, J.J.

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This appeal is against an order directing payment of maintenance pendente lite of Rs. 500/-. There is a clear cut finding by the Court below i.e. the Family Court, that the respondent wife has no independent source of income. The Court below found that the appellant is carrying on business at and from a room situate at Ashok Rajpath, Patna which may fetch a rent of Rs. 5000/- per month. In the circumstances, the Court allowed maintenance pendente lite to the respondent at Rs. 500/- per month and a lump sum amount of Rs. 3824/- on account of litigation cost. The suit for restitution of conjugal rights, in which the said order has

been passed, was filed by the appellant.

In the instant appeal, the learned counsel for the appellant contends that the respondent has not approached the appellant to collect the sum of Rs. 500/- per month in terms of the order and that would suggest that the respondent is not interested in the maintenance as has been awarded. However, the basic contention in the appeal is that the appellant does not have the means to pay Rs. 500/- per month as maintenance to his wife. The learned counsel for the appellant has submitted that the respondent is not alone. She has also taken the child begotten out of the marriage. We do not think that the appellant, who has approached the Court below for restitution of conjugal rights and has approached this Court against an order directing payment of maintenance pendente lite and is conducting litigation through learned advocates, does not earn Rs. 1,500/- per month and as such, there is no scope of interference with the order under challenge.

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The fact remains that despite the appellant having not paid any part of the maintenance, the respondent wife has not been able to initiate a proceeding for execution

of the order. The said affair clearly demonstrates in what pecuniary distressed condition she is living. The appeal is, accordingly, dismissed without any order as to costs.

(Barin Ghosh, J.)

(C.M. Prasad, J.)

Patna High Court,
19th May, 2008,
S.B.P.

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